

LAW OFFICES OF JOHN C. LANE

John C. Lane, Esq. (2569)

48 Woodport Road, Suite 1

Sparta, NJ 07871

(973) 512-3244

Attorneys for Third-Party Plaintiffs

Northeast Mountain Guiding, LLC, Joseph Vulpis, and Bryan Enberg

ATTAIN SPECIALTY INSURANCE
COMPANY,

Plaintiff,

v.

NORTHEAST MOUNTAIN GUIDING, LLC
JOSEPH VULPIS, BRYAN ENBERG, and
MICHAEL MANCHESTER,

Defendants,

v.

NORTHEAST MOUNTAIN GUIDING, LLC
JOSEPH VULPIS, and BRYAN ENBERG,

Third-Party Plaintiffs,

v.

DONALD PACHNER, PACHNER &
ASSOCIATES, LLC and PACHNER RISK
MANAGEMENT, LLC.

Third-Party Defendants.

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

Case No.: 3:16-CV-05129-BRM-LHG

AFFIDAVIT OF MERIT

STATE OF NEW JERSEY)
) ss.

This Affidavit of Merit is made by Frank Seigel, CPCU, of Ringwood Consulting Group, Inc., at the request of Third-Party Plaintiffs, Northeast Mountain Guiding, LLC, Joseph Vulpis, and Bryan Enberg.

Frank Seigel, CPCU, of full age, being duly sworn, upon his oath, according to law, deposes and says:

1. I am a licensed New Jersey Producer with Authorities in Property/Casualty/Life/Health and Surplus Lines.

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2. I am the holder of the Chartered Property and Casualty Underwriter designation (CPCU), a widely recognized professional insurance designation.

3. I have been active in the insurance business in excess of forty (40) years, and am familiar with the types of insurance that are the subject matter of this case. I attach my curriculum vitae hereto and make it a part of this Affidavit.

4. I am a state-approved instructor for the Producer License Exam and for courses of Continuing Insurance Education in New Jersey.

5. I have reviewed the following material in reference to the above matter:

- a. Complaint and Jury Demand of Michael Manchester against Northeast Mountain Guiding, LLC, Joseph Vulpis and Bryan Enberg, undated
- b. Complaint and Jury Demand of Atain Specialty Ins. Co. against Northeast Mountain Guiding, LLC, Joseph Vulpis and Bryan Enberg, filed August 23, 2016
- c. Answer of Northeast Mountain Guiding and Joseph Vulpis to Michael Manchester's Complaint and Defendants' Crossclaims, filed September 19, 2016
- d. Answer of Bryan Enberg to Michael Manchester's Complaint, dated September 26, 2016
- e. Answer of Joseph Vulpis and Brian Enberg to Atain's Complaint, filed October 5, 2016
- f. Answer of Michael Manchester to Atain's Complaint, filed October 18, 2016
- g. First Amended Complaint of Michael Manchester against Northeast Mountain Guiding, LLC, Joseph Vulpis and Bryan Enberg, undated
- h. Amended Answer of Michael Manchester to Atain's Complaint and Manchester's Counterclaim, dated August 21, 2017
- i. Third-Party Complaint of Northeast Mountain Guiding, LLC, Joseph Vulpis and Bryan Enberg against Donald Pachner, Pachner & Assoc., LLC and Pachner Risk Management, LLC, filed August 22, 2017
- j. Third-Party Complaint of Michael Manchester against Donald Pachner, Pachner & Associates, LLC and Pachner Risk Management, LLC, dated August 22, 2017
- k. Answer of Atain Specialty Ins. Co. to Manchester's Counterclaim, filed September 13, 2017
- l. Answer of Donald Pachner, Pachner & Associates, LLC and Pachner Risk Management, LLC to Michael Manchester's Third-Party Complaint, filed October 11, 2017
- m. Answer of Sterling Rope, Inc. to Michael Manchester's First Amended Complaint, filed October 24, 2017
- n. Second Amended Complaint of Michael Manchester against Northeast Mountain Guiding, LLC, et al., undated
- o. Answer of Donald Pachner, Pachner & Associates, LLC and Pachner Risk Management, LLC to Northeast Mountain Guiding, LLC, Joseph Vulpis and Bryan Enberg's Third-Party Complaint, filed October 30, 2017
- p. Amended Answer of Donald Pachner, Pachner & Associates, LLC and Pachner Risk Management, LLC to Manchester's Third-Party Complaint, filed October 30, 2017

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- q. Certificate of Insurance for Northeast Mountain Guiding, LLC through Atain Specialty Ins. with Pachner and Associates, LLC, effective 3/16/2015-16
- r. CGL Terms and Conditions for Northeast Mountain Guiding, LLC through Atain Specialty Ins. with RB Jones, effective 3/16/2015-16
- s. Guided Recreation Program Application for Northeast Mountain Guiding, LLC, effective 1/1/2015-16
- t. Black & White picture of equipment represented to be of an example of a "Ropes/Challenge Course" erected by others, and not used by Northeast Mountain Guiding, LLC.
- u. Information about the November 21, 2015 Incident involving Michael Manchester
- v. Letter to Northeast Mountain Guiding, LLC. from Atain alerting that a claim has been open, dated December 1, 2015
- w. Notice of Reservation of Rights from Atain Specialty Ins. Co. to Northeast Mountain Guiding, LLC., dated February 23, 2016
- x. Email chains in regards to the claim
- y. Non-Waiver Agreement between Atain Specialty Ins. Co. and Northeast Mountain Guiding, LLC, Joseph Vulpis and Bryan Endberg

6. Based on my review of the case to date, it is my opinion that there is a reasonable probability that the care of Donald Pachner, Pachner & Associates, LLC and Pachner Risk Management, LLC, and/or their employees fell outside the acceptable professional standards of practice owed to Northeast Mountain Guiding, LLC, and/or Joseph Vulpis, and Bryan Enberg.

7. I have no financial interest in the outcome of this case.


I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



Frank Seigel, CPCU

Sworn to before me this

22 day of December, 2017.



Notary Public

Yvonne M Turk

Notary Public - New Jersey

My Commission Expires 5-5-2022

No. 50060104